

## SB0216S03 compared with SB0216S02

~~{deleted text}~~ shows text that was in SB0216S02 but was deleted in SB0216S03.

inserted text shows text that was not in SB0216S02 but was inserted into SB0216S03.

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Senator Karen Mayne proposes the following substitute bill:

**POLITICAL ~~{SUBDIVISION FORMATION~~**  
**~~AMENDMENTS}~~ SUBDIVISIONS REVISIONS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Mayne**

House Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill enacts ~~{provisions}~~ language related to ~~{the formation of a}~~ political ~~{subdivision}~~ subdivisions.

#### Highlighted Provisions:

This bill:

▶ ~~{defines terms}~~

▶ enacts} suspends certain township incorporation and township annexation procedures;

▶ requires a county of the first class to study the governance of, delivery of services to, and other issues related to the unincorporated county;

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- ▶ amends provisions authorizing a county ~~{legislative body or residents of the unincorporated county to request an incorporation feasibility study;~~
- ~~directs the county clerk to certify or reject a resident request;~~
- ~~provides requirements for a feasibility study and a hearing on the feasibility study;~~
- ~~enacts provisions authorizing a county legislative body to adopt a resolution to incorporate unincorporated areas of the county as a noncontiguous municipality and residents of the unincorporated county to petition for the incorporation of unincorporated areas of the county as a noncontiguous municipality;~~
- ~~directs a county legislative body to appoint an advisory committee to recommend districts for the council members of the proposed noncontiguous municipality;~~
- ~~directs the county clerk to certify or reject a resident petition for incorporation}~~ to provide municipal services;
- ▶ exempts the creation of a municipal services district from election requirements;
- ▶ amends provisions related to ~~{changing }~~the ~~{boundaries}~~withdrawal of an area from a local district~~{ that includes certain unincorporated county areas}~~;
- ▶ enacts the "Municipal Services District Act," including the following provisions:
  - definitions;
  - applicability of existing law;
  - additional district powers;
  - creation of a municipal services district;
  - board of trustees membership and powers;
  - exclusion of rural real property;
  
  - remittance of sales tax by certain municipalities; and
  - providing and sharing of funds;
- ▶ provides repeal dates; and
- ▶ makes technical and conforming amendments.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

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### Utah Code Sections Affected:

#### AMENDS:

~~{10-1-104}~~17-34-1, as last amended by Laws of Utah 2003, Chapter ~~{292}~~275

~~{10-2-101}~~17B-1-213, as last amended by Laws of Utah ~~{2012}~~2013, Chapter ~~{359}~~265

~~{10-2-102}~~17B-1-214, as last amended by Laws of Utah ~~{2012}~~2013, ~~{Chapter 359}~~  
~~{Chapters 70 and 265}~~

17B-1-215, as last amended by Laws of Utah 2013, Chapter 265

17B-1-502, as last amended by Laws of Utah 2013, Chapter 141

17B-1-512, as last amended by Laws of Utah 2011, Chapter 297

63I-2-210, as last amended by Laws of Utah 2009, Chapter 205

63I-2-217, as last amended by Laws of Utah 2012, Chapter 17

#### ENACTS:

10-2-130, Utah Code Annotated 1953

~~{10-2-131}~~17-15-30, Utah Code Annotated 1953

~~{10-2-132}~~17B-2a-1101, Utah Code Annotated 1953

~~{10-2-133}~~17B-2a-1102, Utah Code Annotated 1953

~~{10-2-134}~~17B-2a-1103, Utah Code Annotated 1953

~~{10-2-135}~~17B-2a-1104, Utah Code Annotated 1953

~~{10-2-136}~~17B-2a-1105, Utah Code Annotated 1953

~~{10-2-137}~~17B-2a-1106, Utah Code Annotated 1953

17B-2a-1107, Utah Code Annotated 1953

17B-2a-1108, Utah Code Annotated 1953

17B-2a-1109, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section ~~{10-1-104}~~10-2-130 is ~~{amended}~~enacted to read:

~~{10-1-104}~~10-2-130. ~~{~~ Definitions:

~~{~~ As used in this title:

~~{(1) "City" means a municipality that is classified by population as a city of the first class, a city of the second class, a city of the third class, a city of the fourth class, or a~~

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~~city of the fifth class, under Section 10-2-301.~~

~~—— (2) "Contiguous" means:~~

~~—— (a) if used to described an area, continuous, uninterrupted, and without an island of territory not included as part of the area; and~~

~~—— (b) if used to describe an area's relationship to another area, sharing a common boundary;~~

~~—— (3) "Governing body" means collectively the legislative body and the executive of any municipality. [Unless otherwise provided:]~~

~~—— [(a) in a city of the first or second class, the governing body is the city commission;]~~

~~—— [(b) in a city of the third, fourth, or fifth class, the governing body is the city council; and]~~

~~—— [(c) in a town, the governing body is the town council.]~~

~~—— (4) "Municipal" means of or relating to a municipality.~~

~~—— (5) "Municipality" means a city of the first class, city of the second class, city of the third class, city of the fourth class, city of the fifth class, or a town, as classified in Section 10-2-301.~~

~~—— (6) "Peninsula," when used to describe an unincorporated area, means an area surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated territory and situated so that the length of a line drawn across the unincorporated area from an incorporated area to an incorporated area on the opposite side shall be less than 25% of the total aggregate boundaries of the unincorporated area.~~

~~—— (7) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.~~

~~—— (8) "Provisions of law" shall include other statutes of the state of Utah and ordinances, rules, and regulations properly adopted by any municipality unless the construction is clearly contrary to the intent of state law.~~

~~—— (9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.~~

~~—— (10) "Town" means a municipality classified by population as a town under Section 10-2-301.~~

~~—— (11) "Unincorporated" means not within a municipality.~~

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~~Section 2. Section 10-2-101 is amended to read:~~

~~10-2-101. Definitions:~~

~~**} Suspension of township incorporation and annexation procedures on or after January 1, 2014.**~~

~~(1) As used in this part:~~

~~(a) "Feasibility consultant" means a person or firm:~~

~~(i) with expertise in the processes and economics of local government; and~~

~~(ii) [who] that is independent of and not affiliated with a county or sponsor of a petition to incorporate;~~

~~(b) "Noncontiguous" means:~~

~~(i) if used to describe an area, discontinuous, interrupted, and possibly with an island of territory included as part of the area; and~~

~~(ii) if used to describe an area's relationship to another area, not sharing a common boundary;~~

~~[(b)] (c) "Private," with respect to real property, means taxable property;~~

~~(2) For purposes of this part:~~

~~(a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the request or petition; and~~

~~(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the request or petition;~~

~~(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a request or petition:~~

~~(a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the request or petition is signed by:~~

~~(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or~~

~~(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;~~

~~(b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:~~

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~~—— (i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and~~

~~—— (ii) the person provides documentation accompanying the request or petition that substantiates the person's representative capacity; and~~

~~—— (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a request or petition on behalf of a deceased owner.~~

~~—— Section 3. Section **10-2-102** is amended to read:~~

~~—— **10-2-102. Incorporation of a contiguous area -- Governing provisions of city or town incorporation -- Incorporation of a noncontiguous area.**~~

~~—— (1) (a) A contiguous area of a county not within a municipality may incorporate as a municipality as provided in this part.~~

~~—— [(2) (a)] (b) Incorporation of a contiguous area as a city is governed by Sections 10-2-103 through 10-2-124.~~

~~—— [(b)] (c) Incorporation of a contiguous area as a town is governed by Sections 10-2-125 through 10-2-129.~~

~~—— (2) A county may study the incorporation of a noncontiguous area of a county of a first class and not within a municipality in accordance with Sections 10-2-130 through 10-2-137.~~

~~—— Section 4. Section **10-2-130** is enacted to read:~~

~~—— **10-2-130. Request or resolution for feasibility study for noncontiguous municipality -- Requirements -- Limitations.**~~

~~—— (1) The process to incorporate as a municipality a noncontiguous area of a county of the first class that is governed by a county executive-council form of government, as described in Section 17-52-504, and not located within a municipality, is initiated by:~~

~~—— (a) a request for a feasibility study filed with the clerk of the county in which the area is located; or~~

~~—— (b) a resolution adopted by the county legislative body to engage a feasibility consultant.~~

~~—— (2) Each request under Subsection (1)(a)(i) shall:~~

~~—— (a) be signed by the owners of private real property that:~~

~~—— (i) is located within the area proposed to be incorporated;~~

~~—— (ii) covers at least 10% of the total private land area within the area; and~~

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~~\_\_\_\_\_ (iii) is equal in value to at least 7% of the value of all private real property within the area;~~

~~\_\_\_\_\_ (b) indicate the typed or printed name and current residence address of each owner signing the request;~~

~~\_\_\_\_\_ (c) describe the noncontiguous area proposed to be incorporated as a municipality;~~

~~\_\_\_\_\_ (d) designate up to five signers of the request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;~~

~~\_\_\_\_\_ (e) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed municipality; and~~

~~\_\_\_\_\_ (f) request the county legislative body to commission a study to determine the feasibility of incorporating the noncontiguous area as a municipality;~~

~~\_\_\_\_\_ (3) A resolution under Subsection (1)(a)(ii) shall:~~

~~\_\_\_\_\_ (a) describe the noncontiguous area proposed to be incorporated as a municipality;~~

~~\_\_\_\_\_ (b) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed municipality; and~~

~~\_\_\_\_\_ (c) direct the county legislative body to commission a study to determine the feasibility of incorporating the area as a municipality.~~

~~\_\_\_\_\_ (4) A request or a resolution for a feasibility study under this section may not propose for incorporation an area that includes some or all of an area that is the subject of a petition that is certified in accordance with Section 10-2-110, a resolution adopted under 10-2-135, or a petition certified in accordance with Section 10-2-137 unless:~~

~~\_\_\_\_\_ (a) the proposed incorporation that is the subject of the petition or resolution has been defeated by the voters at an election under Section 10-2-111; or~~

~~\_\_\_\_\_ (b) the time provided under Subsection 10-2-109(1) or Subsection 10-2-135(1) has lapsed without the filing of a petition or adoption of a resolution.~~

~~\_\_\_\_\_ (5) (a) As used in this Subsection (5):~~

~~\_\_\_\_\_ (i) section:~~

~~\_\_\_\_\_ (a) "Township incorporation procedure" means the following actions, the subject of which includes an area located in whole or in part in a township:~~

~~\_\_\_\_\_ (A) i) a request for incorporation described in Section ~~10-2-130~~ 10-2-103;~~

~~\_\_\_\_\_ (B) ii) a feasibility study described in Section 10-2-106;~~

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~~(fC)iii~~ a modified request and a supplemental feasibility study described in Section 10-2-107; or

~~(fD)iv~~ an incorporation petition described in Section 10-2-109 that is not certified under Section 10-2-110.

~~(fii)b~~ "Township annexation procedure" means one or more of the following actions, the subject of which includes an area located in whole or in part in a township:

~~(fA)i~~ a petition to annex described in Section 10-2-403;

~~(fB)ii~~ a feasibility study described in Section 10-2-413;

~~(fC)iii~~ a modified annexation petition or supplemental feasibility study described in Section 10-2-414;

~~(fD)iv~~ a boundary commission decision described in Section 10-2-416; or

~~(fE)v~~ any action described in Section 10-2-418 before the adoption of an ordinance to approve annexation under Subsection 10-2-418(3)(b).

~~(fb)2(a)~~ Except as provided in Subsection ~~(f5)(d), if an incorporation petition or resolution is filed under this section, and the petition or resolution includes some or all of an area that is the subject of~~~~f3~~:

~~(i) if a request for incorporation described in Section 10-2-130 is filed with the clerk of the county on or after January 1, 2014, a township incorporation procedure ~~for~~ that is the subject of or otherwise relates to that request is suspended until November 15, 2015; and~~

~~(ii) if a petition to annex described in Section 10-2-403 is filed with the city recorder or town clerk on or after January 1, 2014, a township annexation procedure ~~filed on or after January 1, 2014, the township incorporation procedure or township annexation procedure is suspended on the date that the incorporation petition is filed or resolution is adopted under this section.~~~~

~~(c) that is the subject of or otherwise relates to that petition is suspended until November 15, 2015.~~

~~(b) (i) If a township incorporation procedure or township annexation procedure is suspended under Subsection ~~(f5)2~~(~~fb~~a), any applicable deadline or timeline is suspended ~~through May 11~~ before and on November 15, 2015.~~

~~(ii) On ~~May 12~~ November 16, 2015, the applicable deadline or timeline described in Subsection ~~(f5)2~~(~~fb~~b)(i):~~



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(A) may proceed and the period of time during the suspension does not toll against that deadline or timeline; and

(B) does not start over.

(~~f~~~~d~~3) Subsection (~~f~~5)(~~b~~2) does not apply to a township annexation procedure that:

(a) includes ~~fa parcel~~any land area located in whole or in part in a township that is:

(i) ~~fless than or equal to 200~~50 acres or more; and

(ii) primarily owned or controlled by a government entity ~~or a non-profit entity.~~

~~—— (6) (a) At the time of filing the request for a feasibility study with the county clerk, the sponsors of the request shall mail or deliver a copy of the request to the chair of the planning commission of each township in which any part of the area proposed for incorporation is located.~~

~~—— (b) No later than three business days after the day on which a county legislative body adopts a resolution to engage a feasibility consultant, the county legislative body shall mail or deliver a copy of the request to the chair of the planning commission of each township in which any part of the area proposed for incorporation is located.~~

~~—— (7) (a) As used in this Subsection (7), "rural real property" means an area:~~

~~—— (i) zoned primarily for manufacturing, commercial, or agricultural purposes; and~~

~~—— (ii) that does not include residential units with a density greater than one unit per acre.~~

~~—— (b) Except as provided in Subsection (8), unless a property owner consents in writing, a request under Subsection (1)(a)(i) and a resolution under Subsection (1)(a)(ii) may not include real property that:~~

~~—— (i) consists of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels;~~

~~—— (ii) is not contiguous to but is used in connection with rural real property that consists of 1,500 acres or more of contiguous acres of real property;~~

~~—— (iii) is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property; or~~

~~—— (iv) is located in whole or part in one of the following as defined in Section 17-41-101:~~

~~—— (A) an agricultural protection area;~~

~~—— (B) a mining protection area; or~~

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~~— (C) an industrial protection area.~~

~~— (8) A resolution or petition described in Subsection (1) may not include real property described in Subsection (7) without the owner's written consent unless the county legislative body finds by clear and convincing evidence in the record that:~~

~~— (a) the real property is not rural real property; and~~

~~— (b) the real property receives from the county a majority of municipal-type services described in}; or~~

(b) is the subject of or otherwise relates to a petition to annex that is filed in accordance with Subsection {10-2-104(4)(b)(ii)}10-2-403(3) before January 1, 2014.

Section ~~{5}~~2. Section ~~{10-2-131}~~17-15-30 is enacted to read:

**10-2-131. Notice to owner of property -- Exclusion of property from proposed boundaries:**

~~— (1) As used in this section:~~

~~— (a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.~~

~~— (b) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.~~

~~— (c) "Urban" means an area with a residential density of greater than one unit per acre.~~

~~— (2) Within seven calendar days of the date on which a request under Section 10-2-130 is filed or a resolution under Section 10-2-130 is adopted, the county clerk shall send written notice of the proposed incorporation to each record owner of real property owning more than:~~

~~— (a) 1% of the assessed value of all property in the proposed incorporation boundaries; or~~

~~— (b) 10% of the total private land area within the proposed incorporation boundaries.~~

~~— (3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the~~

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~~owner may exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a Notice of Exclusion with the county legislative body within 15 calendar days of receiving the clerk's notice under Subsection (2):~~

~~(4) The county legislative body shall exclude the property identified by an owner in the Notice of Exclusion from the proposed incorporation boundaries unless the county legislative body finds by clear and convincing evidence in the record that:~~

~~(a) the exclusion will leave an~~ **17-15-30. Unincorporated county and services study.**

**No later than December 1, 2014, a county of the first class shall study the governance of, delivery of services to and other issues related to the unincorporated** ~~island within the proposed municipality; and~~

~~(b) the property to be excluded:~~

~~(i) is urban; and~~

~~(ii) currently receives from the county a majority of municipal-type services, including:~~

~~(A) culinary or irrigation water;~~

~~(B) sewage collection or treatment;~~

~~(C) storm drainage or flood control;~~

~~(D) recreational facilities or parks;~~

~~(E) electric generation or transportation;~~

~~(F) construction or maintenance of local streets and roads;~~

~~(G) curb and gutter or sidewalk maintenance;~~

~~(H) garbage and refuse collection; and~~

~~(I) street lighting.~~

~~(5) If the county legislative body excludes property from the proposed boundaries under Subsection (4), the county legislative body shall, within five days of the exclusion, send written notice of the exclusion to the contact sponsor:~~

~~Section 6. Section 10-2-132 is enacted to read:~~

**10-2-132. Processing a request for noncontiguous incorporation -- Certification or rejection by county clerk -- Processing priority -- Limitations -- Township planning commission recommendation.**

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~~—— (1) Within 45 days of the filing of a request under Section 10-2-130, the county clerk shall:~~

~~—— (a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the request complies with Section 10-2-130; and~~

~~—— (b) (i) if the clerk determines that the request complies with Section 10-2-130:~~

~~—— (A) certify the request and deliver the certified request to the county legislative body; and~~

~~—— (B) mail or deliver written notification of the certification to the contact sponsor and the chair of the planning commission of each township in which any part of the area proposed for incorporation is located; or~~

~~—— (ii) if the clerk determines that the request fails to comply with the requirements of Section 10-2-130, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection:~~

~~—— (2) The county clerk shall certify or reject requests under Subsection (1) in the order in which they are filed:~~

~~—— (3) (a) (i) If the county clerk rejects a request under Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk:~~

~~—— (ii) A signature on a request under Section 10-2-130 may be used toward fulfilling the signature requirement of Subsection 10-2-130(2)(a) for the request as modified under Subsection (3)(a)(i):~~

~~—— (b) If a request is amended and refiled under Subsection (3)(a) after having been rejected by the county clerk under Subsection (1)(b)(ii), it shall be considered as a newly filed request, and its processing priority is determined by the date on which it is refiled:~~

~~—— Section 7. Section 10-2-133 is enacted to read:~~

~~—— **10-2-133. Feasibility study -- Feasibility study consultant.**~~

~~—— (1) Within 60 days of receipt of a certified request under Subsection 10-2-132(1)(b)(i), or within 60 days of adopting a resolution to engage a feasibility consultant in accordance with Subsection 10-2-130(1)(a)(ii), the county legislative body shall engage the feasibility consultant chosen under Subsection (2) to conduct a feasibility study:~~

~~—— (2) The feasibility consultant shall be chosen:~~

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- ~~—— (a) (i) if a request for a feasibility study was filed with the county clerk;~~
- ~~—— (A) by the contact sponsor of the incorporation petition with the consent of the county;~~
- ~~or~~
- ~~—— (B) by the county if the designated sponsors state, in writing, that the contact sponsor defers selection of the feasibility consultant to the county; or~~
- ~~—— (ii) if the county legislative body adopted a resolution to engage the feasibility consultant, by the county legislative body; and~~
- ~~—— (b) in accordance with applicable county procurement procedures;~~
- ~~—— (3) The county legislative body shall require the feasibility consultant to:~~
- ~~—— (a) complete the feasibility study and submit the written results to the county legislative body and the contact sponsor, if applicable, no later than 90 days after the feasibility consultant is engaged to conduct the study;~~
- ~~—— (b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and~~
- ~~—— (c) attend the public hearings under Subsection 10-2-134(1) and present the feasibility study results and respond to questions from the public at those hearings;~~
- ~~—— (4) (a) The feasibility study shall consider:~~
- ~~—— (i) population and population density within the area proposed for incorporation and the surrounding area;~~
- ~~—— (ii) current and five-year projections of demographics and economic base in the proposed municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;~~
- ~~—— (iii) projected growth in the proposed municipality and in adjacent areas during the next five years;~~
- ~~—— (iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed municipality, including:~~
- ~~—— (A) culinary water;~~
- ~~—— (B) secondary water;~~
- ~~—— (C) sewer;~~
- ~~—— (D) law enforcement;~~
- ~~—— (E) fire protection;~~

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~~— (F) roads and public works;~~

~~— (G) garbage;~~

~~— (H) weeds; and~~

~~— (I) government offices;~~

~~— (v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed municipality;~~

~~— (vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation; and~~

~~— (vii) the fiscal impact on unincorporated areas, other municipalities, local districts, special service districts, and other governmental entities in the county;~~

~~— (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed municipality in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed municipality at the time of the feasibility study;~~

~~— (ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:~~

~~— (A) the amount it would cost the proposed municipality to provide governmental service for the first five years after incorporation; and~~

~~— (B) the county's present and five-year projected cost of providing governmental service;~~

~~— (iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth;~~

~~— (5) If the five-year projected revenues under Subsection (4)(a)(v) exceed the five-year projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor, if applicable, the county legislative body, and the lieutenant governor;~~

~~— Section 8. Section 10-2-134 is enacted to read:~~

~~— **10-2-134. Public hearings on feasibility study results -- Notice of hearings.**~~

~~— (1) The county legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least two public hearings to be held:~~

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- ~~— (a) within the following 60 days;~~
- ~~— (b) at least seven days apart;~~
- ~~— (c) in geographically diverse locations within the proposed municipality; and~~
- ~~— (d) for the purpose of allowing:~~
  - ~~— (i) the feasibility consultant to present the results of the study; and~~
  - ~~— (ii) the public to become informed about the feasibility study results and to ask the feasibility consultant questions about those results.~~
- ~~— (2) At a public hearing described in Subsection (1), the county legislative body shall:~~
  - ~~— (a) provide a map or plat of the boundaries of the proposed municipality;~~
  - ~~— (b) provide a copy of the feasibility study for public review; and~~
  - ~~— (c) allow the public to express its views about the proposed incorporation, including its views about the proposed boundaries.~~
- ~~— (3) (a) (i) The county clerk shall publish notice of the public hearings required under Subsection (1):~~
  - ~~— (A) at least once a week for three successive weeks in a newspaper of general circulation within the proposed municipality; and~~
  - ~~— (B) on the Utah Public Notice Website, created in Section 63F-1-701, for three weeks.~~
- ~~— (ii) The last publication of notice required under Subsection (3)(a)(i)(A) shall be at least three days before the first public hearing required under Subsection (1):~~
- ~~— (b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed municipality, the county clerk shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed municipality that are most likely to give notice of the hearings to the residents of the proposed municipality:~~
  - ~~— (ii) The clerk shall post the notices under Subsection (3)(b)(i) at least seven days before the first hearing under Subsection (1):~~
- ~~— (c) The notice under Subsections (3)(a) and (b) shall include the feasibility study summary under Subsection 10-2-133(3)(b) and shall indicate that a full copy of the study is available for inspection and copying at the office of the county clerk.~~
- ~~— Section 9. Section 10-2-135 is enacted to read:~~
- ~~— **10-2-135. Noncontiguous incorporation advisory committee petition or resolution**~~
- ~~— **Requirements and form:**~~

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~~—— (1) At any time within one year of the completion of the public hearings required under Subsection 10-2-134(1):~~

~~—— (a) a petition to form an advisory committee for incorporation of the area proposed to be incorporated as a municipality may be filed in the office of the clerk of the county in which the area is located; or~~

~~—— (b) the county legislative body may adopt a resolution to form an advisory committee for incorporation of the area proposed to be incorporated as a municipality;~~

~~—— (2) Each petition under Subsection (1)(a) shall:~~

~~—— (a) be signed by:~~

~~—— (i) 10% of all registered voters within the area proposed to be incorporated as a municipality, according to the official voter registration list maintained by the county on the date the petition is filed; and~~

~~—— (ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting precincts within the area proposed to be incorporated as a municipality, according to the official voter registration list maintained by the county on the date the petition is filed;~~

~~—— (b) indicate the typed or printed name and current residence address of each owner signing the petition;~~

~~—— (c) describe the area proposed to be incorporated as a municipality, as described in the feasibility study request;~~

~~—— (d) state the proposed name for the proposed municipality;~~

~~—— (e) designate five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;~~

~~—— (f) be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed municipality; and~~

~~—— (g) substantially comply with and be circulated in the following form:~~

~~—— "PETITION FOR FORMATION OF ADVISORY COMMITTEE ON INCORPORATION OF (insert the proposed name of the proposed municipality):~~

~~—— To the Honorable County Legislative Body of (insert the name of the county in which the proposed municipality is located) County, Utah:~~

~~—— We, the undersigned registered voters within the area described in this petition, respectfully petition the county legislative body to form an advisory committee to study the~~



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~~question of whether the area should incorporate as a municipality and propose council districts for the proposed municipality. Each of the undersigned affirms that each has personally signed this petition and is a registered voter within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a municipality is described as follows: (insert an accurate description of the area proposed to be incorporated)."~~

~~—— (3) A resolution adopted by the county legislative body for incorporation shall:~~

~~—— (a) include the information described in Subsections (2)(d) and (f); and~~

~~—— (b) appoint members to the council district advisory committee in accordance with Section 10-2-136.~~

~~—— (4) A signature on a request under Section 10-2-130 may be used toward fulfilling the signature requirement of Subsection (2)(a):~~

~~—— (a) if the request under Section 10-2-130 notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition for incorporation under this section; and~~

~~—— (b) unless the signer files with the county clerk a written withdrawal of the signature before the petition under this section is filed with the clerk.~~

~~—— (5) (a) A signature does not qualify as a signature to meet the requirement described in Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:~~

~~—— (i) is not located entirely within the boundaries of the proposed municipality; or~~

~~—— (ii) includes fewer than 50 registered voters.~~

~~—— (b) A voting precinct that is not located entirely within the boundaries of the proposed municipality does not qualify as a voting precinct to meet the precinct requirements of Subsection (2)(a)(ii):~~

~~—— Section 10. Section **10-2-136** is enacted to read:~~

~~—— **10-2-136. Determination of boundaries of council districts -- Appointment of council districts advisory committee -- Adoption of proposed council districts.**~~

~~—— (1) The boundaries of the nine council districts for election of municipal council members shall be designated in accordance with this section.~~

~~—— (2) (a) In a resolution to incorporate under Section 10-2-135, or in accordance with Subsection 10-2-137(4), a resolution adopted after the certification of a petition, the county~~

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~~legislative body shall appoint the following 12 members to a council district advisory committee to advise the county legislative body on the designation of council districts for the noncontiguous area proposed for incorporation or any other matter related to the incorporation, as assigned by the county executive:~~

~~—— (i) six members representing the townships that are located within the county and that are also located, in part or in whole, in the area proposed for incorporation;~~

~~—— (ii) two members who each reside in the area proposed for incorporation; and~~

~~—— (iii) four additional members;~~

~~—— (b) (i) The county legislative body may not appoint a person under Subsection (2)(a) unless the person:~~

~~—— (A) is a registered voter of the county; and~~

~~—— (B) does not hold a public office or public employment other than membership on the advisory committee.~~

~~—— (ii) Notwithstanding Subsection (2)(b)(i)(B), the county legislative body may appoint a public official of a local district, as defined in Section 17B-1-102, or a special service district, as defined in Section 17D-1-102, if the public official does not also hold a public office with a political subdivision other than the local district or special service district.~~

~~—— (c) The county shall reimburse each member of the advisory committee for necessary expenses incurred in performing the member's duties on the committee.~~

~~—— (d) If a vacancy occurs in the advisory committee, the county legislative body shall fill the vacancy within 10 days of receiving notice of the vacancy.~~

~~—— (3) The county executive shall convene a meeting of the members of the advisory committee described in Subsection (2) within 10 days after the day on which the county legislative body adopts the resolution appointing the members.~~

~~—— (4) The advisory committee may:~~

~~—— (a) establish advisory boards or committees and include on them persons who are not members of the advisory committee; and~~

~~—— (b) request the assistance and advice of any officers or employees of a state agency or local government.~~

~~—— (5) (a) The advisory committee shall:~~

~~—— (i) study the division of the area proposed for incorporation into council districts that~~

## SB0216S03 compared with SB0216S02

~~comply with Section 10-3-205.5 or any other matter related to the incorporation, as assigned by the county executive;~~

~~—— (ii) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions;~~

~~—— (iii) include in the report described in Subsection (5)(a)(iv) a determination of the initial terms of the members of the municipal council so that:~~

~~—— (A) approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and~~

~~—— (B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and~~

~~—— (iv) file a written report of its findings and recommendations with the county executive and the county legislative body within 180 days after the convening of its first meeting;~~

~~—— (b) Each advisory committee report under Subsection (5)(a) shall include:~~

~~—— (i) the advisory committee's recommendation as to the division of the area proposed for incorporation into nine council districts; and~~

~~—— (ii) a detailed map, prepared by a licensed surveyor, of the boundaries of each council district;~~

~~—— (6) A meeting held by the advisory committee is open to the public;~~

~~—— (7) The county legislative body shall provide for the advisory committee:~~

~~—— (a) suitable meeting facilities;~~

~~—— (b) necessary secretarial services;~~

~~—— (c) necessary printing and photocopying services; and~~

~~—— (d) necessary clerical and staff assistance;~~

~~Section 11. Section ~~10-2-137~~ is enacted to read:~~

~~**10-2-137. Processing of petition by county clerk -- Certification or rejection == Processing priority -- Resolution after petition to appoint council district advisory committee.**~~

~~—— (1) Within 45 days of the filing of a petition under Section 10-2-135, the county clerk~~

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~~shall:~~

~~—— (a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition meets the requirements of Section 10-2-135; and~~

~~—— (b) (i) if the clerk determines that the petition meets those requirements, certify the petition, deliver it to the county legislative body, and notify in writing the contact sponsor of the certification; or~~

~~—— (ii) if the clerk determines that the petition fails to meet any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.~~

~~—— (2) (a) If the county clerk rejects a petition under Subsection (1)(b)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the county clerk.~~

~~—— (b) A modified petition under Subsection (2)(a) may be filed at any time until 30 days after the county clerk notifies the contact sponsor under Subsection (1)(b)(ii), even though the modified petition is filed after the expiration of the deadline provided in Subsection 10-2-135(1).~~

~~—— (c) A signature on an incorporation petition under Section 10-2-135 may be used toward fulfilling the signature requirement of Subsection 10-2-135(2)(a) for the petition as modified under Subsection (2)(a).~~

~~—— (3) (a) Within 20 days of the county clerk's receipt of a modified petition under Subsection (2)(a), the county clerk shall follow the same procedure for the modified petition as provided under Subsection (1) for an original petition.~~

~~—— (b) If a county clerk rejects a modified petition under Subsection (1)(b)(ii), no further modification of that petition may be filed.~~

~~—— (4) Within 10 days of certification of a petition by the county clerk in accordance with Subsection (1)(b), the county legislative body shall adopt a resolution to appoint members to a council district advisory committee in accordance with Section 10-2-136.~~

~~‡~~county.

Section 3. Section 17-34-1 is amended to read:

**17-34-1. Counties may provide municipal services -- Limitation -- First class counties to provide certain services -- Counties allowed to provide certain services in**

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### recreational areas.

(1) For purposes of this chapter, except as otherwise provided in Subsection (3):

(a) "Greater than class C radioactive waste" has the same meaning as in Section 19-3-303.

(b) "High-level nuclear waste" has the same meaning as in Section 19-3-303.

(c) "Municipal-type services" means:

(i) fire protection service;

(ii) waste and garbage collection and disposal;

(iii) planning and zoning;

(iv) street lighting;

(v) animal services;

(vi) storm drains;

(vii) traffic engineering;

(viii) code enforcement;

(ix) business licensing;

(x) building permits and inspections;

~~(v)~~ (xi) in a county of the first class:

(A) advanced life support and paramedic services; and

(B) detective investigative services; and

~~(v)~~ (xii) all other services and functions that are required by law to be budgeted, appropriated, and accounted for from a municipal services fund or a municipal capital projects fund as defined under Chapter 36, Uniform Fiscal Procedures Act for Counties.

(d) "Placement" has the same meaning as in Section 19-3-303.

(e) "Storage facility" has the same meaning as in Section 19-3-303.

(f) "Transfer facility" has the same meaning as in Section 19-3-303.

(2) A county may:

(a) provide municipal-type services to areas of the county outside the limits of cities and towns without providing the same services to cities or towns; and

(b) fund those services by:

(i) levying a tax on taxable property in the county outside the limits of cities and towns;

[or]

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(ii) charging a service charge or fee to persons benefitting from the municipal-type services~~[-]; or~~

(iii) providing funds to a municipal services district in accordance with Section 17B-2a-1109.

(3) A county may not:

(a) provide, contract to provide, or agree in any manner to provide municipal-type services, as these services are defined in Section 19-3-303, to any area under consideration for a storage facility or transfer facility for the placement of high-level nuclear waste, or greater than class C radioactive waste; or

(b) seek to fund services for these facilities by:

(i) levying a tax; or

(ii) charging a service charge or fee to persons benefitting from the municipal-type services.

(4) Each county of the first class shall provide to the area of the county outside the limits of cities and towns:

(a) advanced life support and paramedic services; and

(b) detective investigative services.

(5) (a) A county may provide fire, paramedic, and police protection services in any area of the county outside the limits of cities and towns that is designated as a recreational area in accordance with the provisions of this Subsection (5).

(b) A county legislative body may designate any area of the county outside the limits of cities and towns as a recreational area if:

(i) the area has fewer than 1,500 residents and is primarily used for recreational purposes, including canyons, ski resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas; and

(ii) the county legislative body makes a finding that the recreational area is used by residents of the county who live both inside and outside the limits of cities and towns.

(c) Fire, paramedic, and police protection services needed to primarily serve those involved in the recreation activities in areas designated as recreational areas by the county legislative body in accordance with Subsection (5)(b) may be funded from the county general fund.

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### Section 4. Section 17B-1-213 is amended to read:

#### **17B-1-213. Protest after adoption of resolution -- Adoption of resolution approving creation for certain districts.**

(1) For purposes of this section, "adequate protests" means protests that are:

(a) filed with the county clerk, municipal clerk or recorder, or local district secretary or clerk, as the case may be, within 60 days after the last public hearing required under Section 17B-1-210; and

(b) signed by:

(i) the owners of private real property that:

(A) is located within the proposed local district;

(B) covers at least 25% of the total private land area within the applicable area; and

(C) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution.

(2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).

(3) If adequate protests are filed, the governing body that adopted a resolution under Subsection 17B-1-203(1)(d) or (e):

(a) may not:

(i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the applicable area;

(ii) take any further action under the protested resolution to create a local district or include the applicable area in a local district; or

(iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(d) or (e) proposing the creation of a local district including substantially the same area as the applicable area and providing the same service as the proposed local district in the protested resolution; and

(b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.

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(4) Subsection (3)(a) may not be construed to prevent an election from being held for a proposed local district whose boundaries do not include an applicable area that is the subject of adequate protests.

(5) (a) If adequate protests are not filed with respect to a resolution proposing the creation of a local district for which an election is not required under Subsection 17B-1-214(3)(d), (e), ~~or~~ (f), or (g) a resolution approving the creation of the local district may be adopted by:

(i) (A) the legislative body of a county whose unincorporated area is included within the proposed local district; and

(B) the legislative body of a municipality whose area is included within the proposed local district; or

(ii) the board of trustees of the initiating local district.

(b) Each resolution adopted under Subsection (5)(a) shall:

(i) describe the area included in the local district;

(ii) be accompanied by a map that shows the boundaries of the local district;

(iii) describe the service to be provided by the local district;

(iv) state the name of the local district; and

(v) provide a process for the appointment of the members of the initial board of trustees.

### Section 5. Section 17B-1-214 is amended to read:

#### **17B-1-214. Election -- Exceptions.**

(1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213(3)(a), an election on the question of whether the local district should be created shall be held by:

(i) if the proposed local district is located entirely within a single county, the responsible clerk; or

(ii) except as provided under Subsection (1)(b), if the proposed local district is located within more than one county, the clerk of each county in which part of the proposed local district is located, in cooperation with the responsible clerk.

(b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located within more than one county and the only area of a county that is included within the proposed local district is located within a single municipality, the election for that area shall be held by



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the municipal clerk or recorder, in cooperation with the responsible clerk.

(2) Each election under Subsection (1) shall be held at the next special or regular general election date that is:

(a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or

(b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-1-210.

(3) The election requirement of Subsection (1) does not apply to:

(a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the owners of private real property that:

(i) is located within the proposed local district;

(ii) covers at least 67% of the total private land area within the proposed local district as a whole and within each applicable area; and

(iii) is equal in value to at least 50% of the value of all private real property within the proposed local district as a whole and within each applicable area;

(b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last general election prior to the filing of the petition;

(c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:

(i) are diverted within the proposed local district; and

(ii) cover at least 67% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed local district as a whole and within each applicable area;

(d) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 5, 2003, that proposes the creation of a local district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed local district includes the unincorporated area, whether in whole or in part, of one or more counties;

(e) a resolution adopted under Subsection 17B-1-203(1)(d) or (e) if the resolution

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proposes the creation of a local district that has no registered voters within its boundaries; ~~[or]~~

(f) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 11, 2010, that proposes the creation of a local district described in Subsection 17B-1-202(1)(a)(xiii)~~[-]; or~~

(g) a resolution adopted under Section 17B-2a-1105 to create a municipal services district.

(4) (a) If the proposed local district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.

(b) The clerk of each county and the clerk or recorder of each municipality involved in an election under Subsection (1) shall cooperate with the responsible clerk in holding the election.

(c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Election Code.

Section 6. Section 17B-1-215 is amended to read:

**17B-1-215. Notice and plat to lieutenant governor -- Recording requirements -- Certificate of incorporation -- Local district incorporated as specialized local district or basic local district -- Effective date.**

(1) (a) Within the time specified in Subsection (1)(b), the responsible body shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The responsible body shall file the documents listed in Subsection (1)(a) with the lieutenant governor within 10 days after:

(i) the canvass of an election under Section 17B-1-214, if a majority of those voting at the election within the proposed local district as a whole vote in favor of the creation of a local district;

(ii) certification of a petition as to which the election requirement of Subsection 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a), (b), or (c); or

(iii) adoption of a resolution, under Subsection 17B-1-213(5) approving the creation of

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a local district for which an election was not required under Subsection 17B-1-214(3)(d), (e), ~~or~~ (f), or (g) by the legislative body of each county whose unincorporated area is included within and the legislative body of each municipality whose area is included within the proposed local district, or by the board of trustees of the initiating local district.

(2) Upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, the responsible body shall:

(a) if the local district is located within the boundary of a single county, submit to the recorder of that county:

(i) the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; and

(ii) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); or

(b) if the local district is located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); and

(ii) submit to the recorder of each other county:

(A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C);

and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5).

(3) The area of each local district consists of:

(a) if an election was held under Section 17B-1-214, the area of the new local district as approved at the election;

(b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), or (c), the area of the proposed local district as described in the petition; or

(c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), ~~or~~ (f), or (g) the area of the new local district as described in the resolution adopted under Subsection

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17B-1-213(5).

(4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under Section 67-1a-6.5, the local district is created and incorporated as:

(i) the type of specialized local district that was specified in the petition under Subsection 17B-1-203(1)(a), (b), or (c) or resolution under Subsection 17B-1-203(1)(d) or (e), if the petition or resolution proposed the creation of a specialized local district; or

(ii) a basic local district, if the petition or resolution did not propose the creation of a specialized local district.

(b) (i) The effective date of a local district's incorporation for purposes of assessing property within the local district is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated local district may not:

(A) levy or collect a property tax on property within the local district;

(B) levy or collect an assessment on property within the local district; or

(C) charge or collect a fee for service provided to property within the local district.

Section ~~17B-1-502~~7. Section **17B-1-502** is amended to read:

**17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in certain circumstances.**

(1) (a) An area within the boundaries of a local district may be withdrawn from the local district only as provided in this part.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local district within a municipality because of a municipal incorporation under Title 10, Chapter 2, Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the local district.

(2) (a) An area within the boundaries of a local district is automatically withdrawn from the local district by the annexation of the area to a municipality or the adding of the area to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services; or

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(B) law enforcement service;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

(iii) before annexation or boundary adjustment, the boundaries of the local district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3) (a) ~~[An]~~ Except as provided in Subsection (3)(c), an area within the boundaries of a local district located in a county of the first class is automatically withdrawn from the local district by the incorporation of a municipality whose boundaries include the area if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services; ~~[or]~~

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

(iii) the legislative body of the newly incorporated municipality:

(A) adopts a resolution no later than 180 days after the effective date of incorporation approving the withdrawal that includes the legal description of the area to be withdrawn; and

(B) delivers a copy of the resolution to the board of trustees of the local district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

(c) Section 17B-1-505 shall govern the withdrawal of an ~~unincorporated~~ incorporated area within a county of the first class if:

(i) the local district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement services; ~~for~~ and

(ii) an election for the creation of the local district was not required under Subsection 17B-1-214(3)(d).

Section 8. Section 17B-1-512 is amended to read:

17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period

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### -- Judicial review.

(1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The board of trustees shall file the documents listed in Subsection (1)(a):

(i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510; and

(ii) as soon as practicable after receiving a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection 17B-1-502(2), after receiving a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a), or after receiving notice of a withdrawal of a municipality from a local district under Section 17B-2-505.

(c) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:

(i) if the withdrawn area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of withdrawal; and

(III) approved final local entity plat; and

(B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or

(ii) if the withdrawn area is located within the boundaries of more than a single county, submit:

(A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and

(B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other

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county.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a local district under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-1-502(3) or Section 17B-2a-1108 shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

(3) (a) The local district may provide for the publication of any resolution approving or denying the withdrawal of an area:

(i) in a newspaper of general circulation in the area proposed for withdrawal; and

(ii) as required in Section 45-1-101.

(b) In lieu of publishing the entire resolution, the local district may publish a notice of withdrawal or denial of withdrawal, containing:

(i) the name of the local district;

(ii) a description of the area proposed for withdrawal;

(iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the local district, identified in the notice, during regular business hours of the local district as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the local district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with

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respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

(6) (a) Any person in interest may seek judicial review of:

(i) the board of trustees' decision to withdraw an area from the local district;

(ii) the terms and conditions of a withdrawal; or

(iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection (6) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);

(ii) if the resolution is not published pursuant to Subsection (3), within 60 days after the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a local district under Subsection (4), and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), in which event the action shall be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection (6) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

(i) the court finds the board of trustees' decision to be arbitrary or capricious; or

(ii) the court finds that the board materially failed to follow the procedures set forth in this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

(7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Section 9. Section 17B-2a-1101 is enacted to read:

### **Part 11. Municipal Services District Act**

#### **17B-2a-1101. Title.**

This part is known as the "Municipal Services District Act."

Section 10. Section 17B-2a-1102 is enacted to read:



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### **17B-2a-1102. Definitions.**

As used in this part, "municipal services" means:

- (1) one or more of the services identified in Section 17-34-1 or 17-36-3; and
- (2) any other municipal-type service provided in the district that is in the interest of the district.

Section 11. Section 17B-2a-1103 is enacted to read:

### **17B-2a-1103. Limited to counties of the first class -- Provisions applicable to municipal services districts.**

(1) (a) A municipal services district may be created only in unincorporated areas in a county of the first class.

(b) Notwithstanding Subsection (1)(a) and subject to Subsection (1)(c), after the initial creation of a municipal services district, an area may be annexed into the municipal services district in accordance with Chapter 1, Part 4, Annexation, whether that area is unincorporated or incorporated.

(c) An area annexed under Subsection (1)(b) may not be located outside of the originating county of the first class.

(2) Each municipal services district is governed by the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(3) This part applies only to a municipal services district.

(4) A municipal services district is not subject to the provisions of any other part of this chapter.

(5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provisions in this part governs.

Section 12. Section 17B-2a-1104 is enacted to read:

### **17B-2a-1104. Additional municipal services district powers.**

In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

(1) notwithstanding Subsection 17B-1-202(3), provide one or multiple municipal services; and

(2) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds.

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to carry out the purposes of the district.

Section 13. Section 17B-2a-1105 is enacted to read:

### **17B-2a-1105. Creation of municipal services district.**

(1) Notwithstanding any other provision of law, the process to create a municipal services district is initiated by a resolution proposing the creation of the municipal services district, adopted by the legislative body of the county whose unincorporated area includes any of the proposed municipal services district.

(2) The resolution described in Subsection (1) shall comply, as applicable, with the provisions of Subsection 17B-1-203(2)(a).

(3) The legislative body shall comply with the requirements of Sections 17B-1-210, 211, and 212.

Section 14. Section 17B-2a-1106 is enacted to read:

### **17B-2a-1106. Municipal services district board of trustees -- Governance.**

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:

(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and

(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.

(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:

(i) act as the legislative body of the district; and

(ii) exercise legislative branch powers and responsibilities established for county

legislative bodies in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county

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executive-council form of county government as described in Section 17-52-504.

(c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:

(i) act as the executive of the district; and

(ii) exercise executive branch powers and responsibilities established for a county executive in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(3) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality and the area is not withdrawn from the district in accordance with Section 17B-1-502, or an area within a municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103:

(a) the district's board of trustees shall include a member of that municipality's governing body; and

(b) the member described in Subsection (3)(a) shall be:

(i) designated by the municipality; and

(ii) a member with powers and duties of other board of trustee members as described in Subsection (2)(b).

(4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(5) (a) Notwithstanding Subsections 17B-1-309(1) or Subsection 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection (5)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

Section 15. Section 17B-2a-1107 is enacted to read:

**17B-2a-1107. Exclusion of rural real property.**

(1) As used in this section, "rural real property" means an area:

(a) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(b) that does not include residential units with a density greater than one unit per acre.

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(2) Unless an owner gives written consent, rural real property may not be included in a municipal services district if the rural real property:

(a) consists of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels;

(b) is not contiguous to but is used in connection with rural real property that consists of 1,500 acres or more contiguous acres of real property consisting of one or more tax parcels;

(c) is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(d) is located in whole or part in one of the following as defined in Section 17-41-101:

(i) an agricultural protection area;

(ii) a mining protection area; or

(iii) an industrial protection area.

Section 16. Section 17B-2a-1108 is enacted to read:

**17B-2a-1108. Municipality required to remit local option sales and use tax.**

(1) If, after incorporation, a municipal legislative body of a municipality located in whole or in part within a municipal services district does not adopt and deliver a resolution to withdraw in accordance with Subsection 17B-1-502(3)(a)(iii), the municipality shall remit to the municipal services district an amount equal to the amount the municipality receives under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act.

(2) For purposes of Subsection (1), the amount a municipality is required to remit to a municipal services district is an amount:

(a) determined after subtracting amounts required under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act, to be deducted from the amount a municipality would otherwise receive under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) representative of only the those taxes collected in the area of the municipality that is also located within the municipal services district.

Section 17. Section 17B-2a-1109 is enacted to read:

**17B-2a-1109. Counties and municipalities authorized to provide funds to a municipal services district.**

A county, or, subject to Section 17B-2a-1108, a municipality involved in the

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establishment and operation of a municipal services district may fund the operation and maintenance of the district through the sharing of sales tax revenue for district purposes.

Section 18. Section 63I-2-210 is amended to read:

### **63I-2-210. Repeal dates -- Title 10.**

(1) Section 10-2-130 is repealed July 1, 2016.

(2) Subsection 10-9a-305(2) is repealed July 1, 2013.

Section 19. Section 63I-2-217 is amended to read:

### **63I-2-217. Repeal dates -- Title 17.**

(1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and" and ", as applicable," is repealed January 1, 2015.

(2) Section 17-15-30 is repealed July 1, 2015.

[(2)] (3) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

[(3)] (4) Subsection 17-24-1(4)(b), the language that states ", as applicable, Sections 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.

[(4)] (5) Subsection 17-24-4(2), the language that states ", as applicable, Subsection 17-19-3(3)(b) or" is repealed January 1, 2015.

[(5)] (6) Subsection 17-27a-305(2) is repealed July 1, 2013.

[(6)] (7) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.

(b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is repealed January 1, 2015.

(c) Subsection 17-36-3(7), the language that states "17-19-3," and ", or 17-24-1.1, as applicable" is repealed January 1, 2015.

[(7)] (8) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as applicable, or" is repealed January 1, 2015.

[(8)] (9) Subsection 17-36-10(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class

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is subject to the provisions of this section."

~~[(9)]~~ (10) Section 17-36-10.1 is repealed January 1, 2015.

~~[(10)]~~ (11) Subsection 17-36-11(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

~~[(11)]~~ (12) Section 17-36-11.1 is repealed January 1, 2015.

~~[(12)]~~ (13) Subsection 17-36-15(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

~~[(13)]~~ (14) Section 17-36-15.1 is repealed January 1, 2015.

~~[(14)]~~ (15) Subsection 17-36-20(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

~~[(15)]~~ (16) Section 17-36-20.1 is repealed January 1, 2015.

~~[(16)]~~ (17) Subsection 17-36-32(4), the language that states "or 17-36-20.1, as applicable, and" is repealed January 1, 2015.

~~[(17)]~~ (18) Subsection 17-36-43(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

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~~[(18)]~~ (19) Section 17-36-43.1 is repealed January 1, 2015.

~~[(19)]~~ (20) Section 17-36-44, the language that states "or 17-36-43.1, as applicable" is repealed January 1, 2015.

~~[(20)]~~ (21) Subsection 17-50-401(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

~~[(21)]~~ (22) Section 17-50-401.1 is repealed January 1, 2015.

~~[(22)]~~ (23) Subsection 17-52-101(2), the language that states "or 17-52-401.1, as applicable" is repealed January 1, 2015.

~~[(23)]~~ (24) Subsection 17-52-401(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

~~[(24)]~~ (25) Section 17-52-401.1 is repealed January 1, 2015.

~~[(25)]~~ (26) Subsection 17-52-403(1)(a), the language that states "or 17-52-401.1(2)(c), as applicable" is repealed January 1, 2015.

~~[(26)]~~ (27) On January 1, 2015, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2012, Chapter 17.